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Progress of Arbitration the Past Century.

BY ROBERT TREAT PAINE.

Friends of Peace, Justice and the World's Best Progress: We meet to do all in our power to start the new century right, in the pursuit of these great ideals. We meet to review the progress which the last century has achieved in this direction; and as we realize how glorious this progress has been, we will thank God and take courage. We shall find in the rapidly increasing speed with which the civilized world has been moving toward these great ideals not only profoundest cause for hope even now, in spite of temporary eclipse; but as we see how this progress has been made under the compulsion of the intelligent conscience of the civilized world, friends of peace in America and in all lands may approach the threatenings of war, as they will no doubt arise for many years to come, with exultant faith and indomitable courage.

Science teaches how the natural world advances by evolution, so that whoever doubts is an effete remnant of exploded ignorance. With equal certitude, the history of this last good old nineteenth century declares the wondrous progress of the world towards peace among the nations, towards judicial arbitration aiming at justice, as a substitute for the cruel decisions of bloody war, aiming at greedy conquest or ghastly revenge.

We salute the new twentieth century with all its radiant hopes of even more rapid progress. We consecrate to this cause the full measure of the strength God has given to us. We firmly believe our glorious republic will lead the vanguard of civilization, and that the powers of Europe will not be far behind.

Glance rapidly over the last century and see how it more than confirms what I have said. A hundred years ago, after our country had achieved its independence by force of arms in a long war, the French Revolution filled the sky of the civilized world with its bloody horrors, its function being to destroy the last remnants of feudalistic tyranny. Waterloo buried the old and marked the beginning of the new conditions of life. Who can imagine the contempt of Napoleon for arbitration as a substitute for his old guard and his brilliant array of marshals!

What a crushing rejoinder to war fiends is made by the progress of international arbitration in this century just closed! Unheard of during the first decade, it culminates in the last decade in the Hague Conference and Convention, with a Permanent High Court of Nations. The Czar's immortal invitation, at first "criticised with sneers, abuse, ridicule or indifference, mostly by people who have taken the precaution not to read it," will take rank as one of the great documents in all history, with the Magna Charta of Runnymede and the Declaration of Independence. Hear again its opening words: "The maintenance of general peace and a possible reduction of the excessive armaments which weigh upon all nations present themselves, in the existing condition of the whole world, as the ideal towards which the endeavors of all governments should be directed."

Now hear its close: "This Conference would be, by the help of God, a happy presage for the century which is about to open. It would converge in one powerful

focus the efforts of all the states which are sincerely seeking to make the great conception of universal peace triumph over the elements of trouble and discord. It would, at the same time, cement their agreement by a corporate consecration of the principles of equity and right, on which rest the security of states and the welfare of peoples."

What grander theme can some great future historian find, when he treats of the World Drama, than the gathering at The Hague of a hundred leading men of the twenty-six great nations of the world and the conflict of intellectual forces among them—at first with skepticism of any serious action as to arbitration, and then how the men from America were in dead earnest; and how later, when things looked dark, letters poured in from all parts of the United States with hopes and prayers, till at last the whole Conference was led to its splendid triumph and the High Court of Nations was set up before the world, the most august tribunal in all history.

Hear again a few of the opening words of this great agreement:

"Animated by a strong desire to concert for the maintenance of general peace;

"Resolved to promote by their best efforts the friendly settlement of international disputes;

"Recognizing the solidarity which unites the members of the society of civilized nations;

"Desirous of extending the empire of law, and of strengthening the appreciation of international justice;

"Convinced that the permanent institution of a Court of Arbitration, accessible to all, in the midst of the independent powers, will contribute effectively to this result;

"Having regard to the advantages attending the general and regular organization of arbitral procedure;

"Sharing the opinion of the august initiator of the International Peace Conference that it is expedient to solemnly establish, by an international agreement, the principles of equity and right on which repose the security of states and the welfare of peoples;

"Being desirous of concluding a convention to this effect, have appointed as their plenipotentiaries: . . ."

Listen to the Articles creating the High Court:

"Chapter 11. On the Permanent Court of Arbitration.

"Article 20. With the object of facilitating an immediate recourse to arbitration for international differences which could not be settled by diplomatic methods, the signatory powers undertake to organize a Permanent Court of Arbitration accessible at all times, and acting, unless otherwise stipulated by the parties, in accordance with the rules of procedure included in the present Convention.

"Article 21. The Permanent Court shall have jurisdiction of all cases of arbitration, unless there shall be an agreement between the parties for the establishment of a special tribunal."

The eminence of the members of this Court now being appointed by the nations guarantees its dignity. The achievement of this High Court of Arbitration is numbered among the noblest of the century, a consummation not dreamed of a decade ago. Even in 1898, when the Czar made his proposals to the world, they were received with such incredulity or ridicule that his sincerity was much discussed, whereas now it is conceded by all to be the supreme glory of his reign.

Americans should not forget that the most picturesque incident of the Hague gathering was the oration, on the Fourth of July, of our honored delegate, Andrew D. White, on the "Fame and Memory of the Great Dutch Jurist, Hugo Grotius," with the ceremony of depositing

a beautiful silver wreath upon his tomb in the presence of them all.

How can any century of coming time equal this transcendent stride towards international peace and justice, from the bloody struggle of Waterloo to this peaceful triumph at The Hague? Will you turn back with me and think of some of the stages of this wondrous progress?

Dr. W. Evans Darby, secretary of the Peace Society of England (*International Tribunals*, p. 486), has gathered into a noble progression the data of one hundred and ninety-five "Instances of International Arbitration since the Pacification of 1815."

The first arbitration of the century, so far as I know, was between the United States and Great Britain, by the treaty of Ghent in 1814, about matters in the Bay of Fundy. While the first decade of the century saw none and the third saw only four, the last decade saw sixty-three cases of peaceful arbitration.

Whether Europe or America will ever witness again a vast struggle between great civilized powers, we cannot know. If not impossible, it is at least utterly improbable in the judgment of eminent and wise students of this subject (of whom perhaps the foremost in the world is the public-spirited publicist, Mr. J. S. Bloch, a banker of vast wealth at Warsaw), so terrific have grown the powers of annihilating life and of inflicting commercial and financial ruin on the world, perhaps on victor almost as much as on the vanquished. (*The Future of War*. J. S. Bloch, 1899.)

Yet it is painful to remember that since Waterloo at least six wars of the first magnitude have brought sudden eclipse over the world. The Crimea, Italy, Turkey, Austria, France and our own land have seen and suffered. May I relate an incident to show how suddenly volcanic explosions come? When I attempted the ascent of Mt. Blanc in July, 1870, peace reigned, but as I descended the next day into Chamounix a *gens d'armes* tapped one of my guides on the shoulder with the order to report for duty, as war had been declared.

The movement for an arbitration treaty between Great Britain and the United States I think we may say began in 1887, when a deputation of thirteen Englishmen brought over a memorial signed by two hundred and thirty-three members of the British House of Commons, presented it to the President, and were received by him most cordially. Let me read a few words. The memorial asked for "a treaty which shall stipulate that any differences or disputes arising between the two governments, which cannot be adjusted by diplomatic agency, shall be referred to arbitration. Should such a proposal happily emanate from the Congress of the United States, our best influence shall be used to ensure its acceptance by the government of Great Britain." The President promised to give the matter his "faithful and careful consideration."

The next important step was taken on the 3d of April, 1890, when the Sherman Concurrent Resolution was passed unanimously by our House of Representatives — a brief but important resolve:

"Resolved by the Senate (the House of Representatives concurring) that the President be and is hereby requested to invite from time to time, as fit occasion may arise, negotiations with any government with which the United States may have diplomatic relations, to the end that any differences or dis-

putes arising between the governments, which cannot be adjusted by diplomatic agency, may be referred to arbitration."

Now you will remember that just at that time the Pan-American Congress had been meeting at Washington, summoned by our government from all the republics of this continent. Let me read a few words spoken when that conference was called together, in the welcome officially extended by Mr. Blaine on the 3d of October, 1889, to the delegates from the countries of this continent:

"The delegates I am addressing can do much to establish permanent relations of confidence, respect, and friendship between the nations which they represent. They can show to the world an honorable, peaceful conference of eighteen independent American powers, in which all shall meet together on terms of absolute equality; a conference in which there can be no attempt to coerce a single delegate against his own conception of the interests of his nation; a conference which will permit no secret understanding on any subject, but will frankly publish to the world all its conclusions; a conference which will tolerate no spirit of conquest, but will aim to cultivate an American sympathy, as broad as both continents; a conference which will form no selfish alliance against the older nations from which we are proud to claim inheritance; a conference, in fine, which will seek nothing, propose nothing, endure nothing, that is not, in the general sense of all the delegates, timely and wise and peaceful."

And a few words toward the end of Mr. Blaine's welcome:

"It will be a great gain when we shall be able to draw the people of all American nations into closer acquaintance with each other,—an end to be facilitated by more frequent and more rapid intercommunication. It will be the greatest gain when the personal and commercial relations of the American States, South and North, shall be so developed and so regulated that each shall acquire the highest possible advantage from the enlightened and enlarged intercourse of all."

You will remember that, as a result of that Pan-American Congress, a brief draft of a treaty of arbitration was prepared, to be signed by the delegates of those countries. It was signed by all of them. Unfortunately it had a time limit, which required that it be ratified by the home governments on or before a given date, which came too soon, so that no accomplished treaty has grown out of that proposal.

Immediately after the adjournment of the Pan-American Conference, and acting upon the resolve passed unanimously by our House of Representatives, a circular letter from our State Department, over the signature of Mr. Blaine, was sent to the various countries with whom we have diplomatic relations, intimating that the United States was ready to negotiate treaties of arbitration. This then was another important step forward in 1890.

I happened to be in Paris in September, 1891, and inquired of Mr. Whitelaw Reid, our ambassador there, what progress had been made in the matter with France. He said that France was not ready to negotiate treaties of arbitration. France felt that she had a matter to settle with Germany, to recover Alsace and Lorraine, which meant war, and she was not ready seriously to consider arbitration. In London Mr. Robert T. Lincoln, our ambassador at the Court of St. James, told me he had communicated the letter of our State Department to the British government. It had been acknowledged, but nothing further had been done, and at that time he was not hopeful that Great Britain would act.

Large bodies move slowly; England did not act until after a lapse of over a year, when the friends of peace

in the House of Commons made a strenuous attempt. The 16th of June, 1893, was a great day in our cause. Mr. Gladstone, prime minister, improved the resolution introduced by Mr. Cremer by an amendment which he himself offered. After a debate, in which he made a powerful speech (Sir John Lubbock and other leading members speaking, and a good part of the session being devoted to speeches in favor of the motion), this resolution was passed "without a division":

"That this House has learned with satisfaction that both Houses of the United States Congress have authorized the President to invite from time to time, as fit occasions may arise, negotiations with any government with which the United States has or may have diplomatic relations, to the end that any differences or disputes arising between the two governments, which cannot be adjusted by diplomatic agencies, may be referred to arbitration, and peaceably adjusted by such means; and that this House, cordially sympathizing with the purpose in view, expresses the hope that Her Majesty's government will lend their ready coöperation to the government of the United States upon the basis of the foregoing resolutions."

The dangers growing out of the dispute between America and England about the Venezuelan boundary presently directed the thoughts of both nations towards a permanent treaty between them providing for obligatory arbitration. Such a treaty was prepared, as all know. The failure of this treaty to be ratified in the United States Senate for lack of a few votes is still a matter of profoundest regret to all friends of peace in both lands.

All this brings us to the next great step forward demanded in the interests of peace between the Anglo-Saxon peoples. Is not the time ripe for the negotiation and ratification of a new treaty on similar lines to those which Mr. Olney and Sir Julian Pauncefote developed? Italy and Argentina, three years ago, completed a treaty for permanent arbitration. Other nations of the world should follow. Why may it not be the privilege and the high honor of the United States to be among the leaders in the further advancement of this great cause?

Before I close, allusion must be made to the shame now overwhelming England and the United States for their attempts to crush out the liberties of the Boers and the Filipinos by cruel, protracted and, in the judgment of many competent judges, hopeless war. Whether, in the good providence of God, the jingoes of both lands are to triumph, the future will reveal.

Oh, that the United States government might realize the intensity of horror, humiliation, heart burning, felt by many of our people at the attempted oppression and subjugation of a people three times as numerous as we were in our struggle for liberty, under the pretence that we have bought them as prize of war, and are entitled to rule them because they need our benevolent aid and Christian civilization! "Benevolent assimilation" is discovered to mean the moral ruin of a simple, childlike, innocent people, of course not the equals of the Anglo-Saxons in mental power or civil development, but who know enough to fiercely resent being treated with contempt by dregs of soldiers who, in spite of good officers, usually call the Filipinos "damned niggers," and treat them accordingly.

The limitations of our Constitution, regarded as the consummate product for civil government in the world's history, are brought out prominently by the necessities

of this distant and unnatural war. Should the President, in order to promote a settlement, exercise powers not conferred by the Constitution, such usurpation would make him a temporary autocrat to be compared to the dictator in ancient Rome, when clothed with supreme powers of protecting that republic in crises of great danger; but the thought is intolerable, and the usurper would be impeached.

Secondly, the methods of *Congressional action* are so slow and so controlled by party interest and strategy, that up to this moment, wonderful and shameful to relate, Congress has taken no action under which the Philippine war can be settled, short of that unconditional surrender, which to a foreign people, with the power, patriotism and intelligence of the Filipinos, is worse than annihilation.

Or, thirdly, is it the wish of America that discretionary powers should be conferred upon a *war cabinet*?

Alas, why should our Constitution, admirably adapted to promote the welfare of our own people in this vast continent of America, be degraded and polluted to meet the exigencies of needless foreign war? Such abandonment of our own heritage of infinite value would be the worst treason possible to contemplate.

No government can be well adapted to the peaceful and deliberate processes of a democratic republic and at the same time to the arbitrary autocratic methods of Czar or Kaiser or even British Cabinet. Either of these latter agencies would have escaped the Philippine war at the outset, could have settled it at any time in the struggle, or could make a satisfactory adjustment now within sixty days. But the methods of the American Constitution, admirably adapted to our own government, are an utter failure when the force of war and the arts of diplomacy should be in a single hand, able to act with prompt decision.

How soon would peace prevail between the Filipinos and us if we remembered the Golden Rule! Who dares to think what punishment God may have in store for America if she goes on warring upon them in the mad pursuit of commercial gain or power, or to acquire a convenient stepping-stone to Asiatic empire!

England also,—how can she be blind to the tremendous dangers of her crime against liberty and God? Is it possible she does not see how she is alienating that respect and affection for her throughout the United States, which, without any treaty, was bringing on a solidarity of the Anglo-Saxon peoples of infinite value to her welfare in possible struggles of the not remote future? How can she be conscious of strength and self-respect when her best citizens are crushed under a weight of shame? Sad indeed was it at the Peace Conference in October last, at Paris, to see an illustrious Englishman rise to speak, and say, with bowed head, that as an Englishman his hands were dripping with his brothers' blood.

Yet away with all despondency! God rules, and righteousness must prevail, at least at last. I wish every American might read the recent noble appeal of Cardinal Gibbons, head of the Roman Catholic Church in America, to America for justice to the Filipinos. Why will not ministers of God all across our land teach their people the duty of justice to other peoples by our mighty nation, as well as of justice between man and man? The advocates of peace appeal to them to aid

in arousing and guiding our people and all peoples, to forget greed of gain or lust of land or pride of power, and to hate all the wickedness of war, and to remember that the glory of a nation consists not in wealth, even though it be beyond the dreams of avarice, nor in swift and powerful and numerous ships of war, nor in the array of invincible armies, but in the exaltation of those qualities of mind and heart and will wherein man was made in the image of God.

The exact terms of settling these two wicked wars against Boers and Filipinos are not for our consideration; yet what friend of peace would not condemn the demand for unconditional surrender as a crime and a blunder? We demand of both Anglo-Saxon nations to treat their present foes with the magnanimity due from the powerful to the weak; from educated, cultivated, Christian nations to other peoples whom they propose to civilize and uplift.

Here, then, are some of the splendid ambitions of peace men at the present time:

Peace on magnanimous terms between America and the Filipinos.

Peace on magnanimous terms between Britain and the Boers.

The stout upholding of the High Court of Nations created by the Hague Convention.

Special treaties by each nation with each and every other nation, by which they shall be bound to submit all future disputes to the arbitration and decision of this High Court of Nations.

The Permanent Court of Arbitration.

BY EDWARD EVERETT HALE, D.D.

I have assigned to me the very pleasant duty of speaking on the history of the Hague Conference. It is a duty which would have been better discharged by our friend Dr. Trueblood, who was present at The Hague through the meetings of the Conference; but he has a wider field to speak of to-day, and I shall confine myself entirely to the subject which has so much interest now, the successful establishment of the High Court of Nations.

The ideal of a High Court is by no means new; it has been on the minds of people of conscience and intelligence since the time of Henry IV.; but nobody has known how to bring it about until the Czar of Russia, the head of the largest army which has ever been in the world, the head of the largest empire which now exists, proposed measures for the pacification of the world. I will not now go into any explanation of the sneers and cynical criticism with which the Czar was met; the success which has attended his proposals is so great that we can well forget the Pharisees and Sadducees and Philistines who steadily opposed the progress of the movement.

I am an American and I speak as an American. I am democrat of the democrats, and I speak as a democrat. I believe in constitutional law. And it is in each of these capacities that I ask you to congratulate the world on the success with which the new century begins. Speaking as an American, I like to say that I do not believe the High Court of Nations would exist to-day if the Supreme Court of the United States had not been called into being in 1789. I believe that that magnificent object-lesson has, in a hundred years, produced its effect upon the nations. If thirteen states of different

origins, different religions, different selfishnesses, could ally themselves together into the United States, and that region become so large that cynics like to call it an empire, why, there must be some reason for this. The reason is, first, second and last, that these thirteen states agreed to refer every difficulty which might arise between them to what they proudly called the Supreme Court. It is not possible, I say, for such an object-lesson to exist for one hundred and ten years without carrying its lesson to the nations of Christendom.

If a Supreme Court succeeded with these thirteen states, till they grew to be forty and forty-five states, why should it not succeed with the twenty-six countries of Europe, Asia and America, represented at The Hague? The Emperor of Russia thought it would. I think it is fair to say that the same desire for peace existed also among the real statesmen of the world, the men who give their attention to the foundations of empire and to the principles of government. There are not a great many men who make this a study. Many persons offer opinions upon subjects of which they know nothing; but there are a few men in every nation who study the science of government and know something of it. They are not men who rush to the journals to blow their own trumpets, or whose trumpets are much blown by other people. They are such men as Grotius was,—a private individual, who has swayed the whole international thought and movement of nearly three centuries. The great writers on international law have all been private men, and international law exists to-day because private students have wrought it out. I venture to say that that class of men in the nations of the world believed in peace.

When the Czar's proposal was brought forward, the heads of the twenty-six powers of course selected such men as these as their representatives at The Hague. When it is said that the meeting of the hundred men at The Hague was the most remarkable body of men who ever came together in the history of modern times, the meaning is that this class of students were together there. Whatever any individual sovereign might think as to the possibilities of the conference, no one of them chose to be represented there by an inferior person.

America sent to this tribunal a very remarkable delegation. One likes to say this when he is told constantly that appointments in this country are made simply for pay; for somehow it has turned out, for a hundred and ten years, that the diplomacy of America has been marvelously successful in the diplomatic work of the world. We sent to The Hague a body of men who had the understanding that the government of this country meant to have a Permanent Tribunal of the nations, and that it believed that this could be brought about by the meeting of this body. When they waited upon the authorities in England, they found those gentlemen only eager to carry out such a plan. I do not think words can be found to express the sense of the gratitude that the world ought to show Lord Pauncefoot for the steady way in which he insisted from the beginning that a High Court was possible; that that was the center of the target, at which all arrows should be directed. Now on that side of the ocean it is not the fashion to speak of America with contempt; we reserve that for ourselves. So from the beginning all men knew that it was the opinion of America that it would be wise and prudent to establish